

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: § Customer No.: 27405  
Derek J. Daw, Jeffrey L. Creech and §  
William R. Patterson §  
§ Group Art Unit: Unassigned  
Parent Serial No.: 10/610,084 §  
Parent Filed: June 30, 2003 § Examiner: Unassigned  
§  
Serial No.: Unassigned §  
Filed: Herewith §  
§  
For: System and Method of Evaluating or § Atty. Docket: PA094-US  
Calibrating a Bubble Detector (as amended) §  
§

MS Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

"EXPRESS MAIL" MAILING LABEL	
NUMBER:	EL 842829775 US
DATE OF DEPOSIT:	December 31, 2003
<i>Pursuant to 37 C.F.R. § 1.10, I hereby certify that I am personally depositing this paper or fee with the U.S. Postal Service, "Express Mail Post Office to Addressee" service on the date indicated above in a sealed envelope (a) having the above-numbered Express Mail label and sufficient postage affixed, and (b) addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</i>	
12/31/03	<i>Tamara J. McGovern</i>
Date	Tamara J. McGovern

Sir:

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**

In accordance with 37 C.F.R. §§ 1.56 and 1.97, enclosed please find a copy of Form PTO-1449 listing references which might be deemed material to the examination of the above -identified application.

In accordance with 37 C.F.R. §1.97, this Information Disclosure Statement is not to be construed as a representation that a search has been made, as an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b), or as a representation that no other possibly material information, as defined in 37 C.F.R. §1.56(b), exists.

1.  The information disclosure statement submitted herewith is being filed:

- (1) within three months of the filing date of a national application or
- (2) within three months of the date of entry of the national stage in an international application or
- (3) before the mailing date of a first Office Action on the merits or

(4) before the mailing date of a first Office Action after the filing of a request for continued examination under §1.114, whichever event occurs last. 37 C.F.R. §1.97(b).

2.  The information disclosure statement transmitted herewith is being filed *after* three months of the filing date of a national application or date of entry of the national stage as set forth in §1.491 in an international application or after the mailing date of the first Office Action on the merits or after the mailing date of the first Office Action after the filing of a request for continued examination under §1.114, whichever event occurred last but *before* the mailing date of either:

- (1) a final action under §1.113 or
- (2) a notice of allowance under §1.311, whichever occurs first.

37 C.F.R. §1.97(c).

#### **CERTIFICATION OR FEE**

A. Included with this transmittal is

- i.  a certification (set forth below) in accordance with 37 C.F.R. §1.97(e). (If for any reason the certification set forth below should be unsatisfactory, the Commissioner is provisionally authorized to charge the \$180 fee (37 C.F.R. §1.17(p)) to Deposit Account No. 501769. A duplicate copy of this sheet is enclosed.)

**OR**
- ii.  the attached fee set forth in 37 C.F.R. §1.17(p) for submission of an information disclosure statement under §1.97(c). (\$180.00).

3.  The information disclosure statement transmitted herewith is being filed *after* a final action under §1.113 or a notice of allowance under §1.311, whichever occurs first, but before, or simultaneously with the payment of the issue fee. 37 C.F.R. §1.97(d).

#### **CERTIFICATION, PETITION AND FEE**

A. In accordance with the requirements of 37 C.F.R. §1.97(d):

- i. Set forth below is a certification as specified in 37 C.F.R. §1.97(e).
- ii. Applicant hereby petitions for the consideration of the accompanying information disclosure statement. 37 C.F.R. §1.97(d)(2).
- iii. Applicant submits the petition fee set forth in §1.17(i). (\$130.00).

### **CERTIFICATION**

(Required if 2Ai or 3 above is marked)

4. I, the person signing below, certify

that each item of information contained in the information disclosure statement was cited in the attached communication from a foreign patent office in a counterpart foreign application and that the communication is dated not more than three months prior to the filing of the statement. 37 C.F.R. §1.97(e)(1).

**OR**

that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of the statement. 37 C.F.R. §1.97(e)(2).

5.  A copy of any patent, publication or other information listed in the attached PTO-1449 is not being provided if it was previously cited by or submitted to the Office in a prior application, upon which this application relies for an earlier filing date under 35 U.S.C. 120.  
37 C.F.R. §1.98(d).

Prior application serial no. 10/610,084

Filing date June 30, 2003

6.  If a fee is due, a fee transmittal is provided herewith. Further, if it should be determined that for any reason either an insufficient fee or an excessive has been paid, please charge any insufficiency or credit any overpayment necessary to ensure consideration of the information disclosure statement for the above-identified application to Deposit Account No. 501769.

Respectfully submitted,

Date: 12/31/03

Margaret A. Kivinski  
Margaret A. Kivinski, Esq.  
Reg. No. 38,517  
THEROX, INC.  
2400 Michelson Drive  
Irvine, California 92612-1310  
(949) 757-1999

Form PTO-1449 (modified)		ATTY. DOCKET NO. PA094-US	SERIAL NO. Unassigned
List of Patents and Publications For Applicant's Information Disclosure Statement  (Use several sheets if necessary)		APPLICANT Daw et al.	
		FILING DATE Herewith	GROUP Unassigned

#### U.S. PATENT DOCUMENTS

EXAM. INIT.	REF. DES.	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
		3,974,681	08/17/76	Namery	73	600	
		4,828,543	05/09/89	Weiss et al.	604	4	04/03/86
		5,053,747	10/01/91	Slate et al.	340	507	
		5,176,631	01/05/93	Koenig	604	65	
		5,198,776	03/30/93	Carr	324	639	
		5,394,732	03/07/95	Johnson et al.	73	19.1	
		5,723,773	03/03/98	Bryan	73	61.75	
		6,036,645	03/14/2000	Drost et al.	600	459	
		6,180,059	01/20/01	Divino, Jr. et al.	422	45	07/28/98

#### FOREIGN PATENT DOCUMENTS

EXAM. INIT.	REF. DES.	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION
		DE8907919U	10/05/89	Germany			No

#### OTHER ART

EXAM. INIT.	REF. DES.	AUTHOR, TITLE, JOURNAL, VOLUME, PERTINENT PAGES, DATE
		Wojke R. et al., "Ein Einfaches Testverfahren Zur Detektion Von Mikroblasen Im Extrakorporalen Blutkreislauf.\nA Simple Test Procedure for the Detection of Microbubbles in the Extracorporeal Blood Circulation", Biomedizinische Technik, Fachverlag Schiele Und Schoen GmbH. Berlin, DE,, vol. 38, no. 3, 1 March 1993 (1993-03-01), Pages 34-37, XP000360414, ISSN: 0013-5585.

EXAMINER	DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	